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In re Application of	:	
HARLING, Earl, et al.	:	
Application No.: 10/009,990	:	DECISION ON
PCT No.: PCT/GB00/02226	:	
Int. Filing Date: 08 June 2000	:	PETITION UNDER
Priority Date: 08 June 1999	:	
Attorney Docket No.: NIDN-73132	:	37 CFR 1.47(a)
For: VENTILATION SYSTEM	:	

This is a decision on applicants' "Petition Under 37 C.F.R. 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 11 September 2002.

### BACKGROUND

On 08 June 2000, applicants filed international application PCT/GB00/02226, which claimed a priority date of 08 June 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 December 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 27 October 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 10 December 2001 (08 December 2001 was a Saturday).

On 07 December 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 09 April 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 11 September 2002, applicants submitted the instant petition under 37 CFR 1.47, which was accompanied by, *inter alia*, a petition for a three-month extension of time; a declaration executed by three of the six inventors; a statement by Robert Chisholm; certified mail receipts and copies of the letters to the non-signing inventors.

### DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1) and (4) have been met. The petition fee of \$130 will be charged to deposit account no. 50-0588 as authorized by the petition. The declaration complies with 37 CFR 1.497(a)-(b).

Item (2) has not been met. Under 37 CFR 1.47(a), the petition must supply proof of pertinent facts.

The record does not indicate that the inventors were presented with a full set of application papers. While the letters list the specification as an enclosure, Robert Chisholm's declaration states only that the inventors were sent the declaration. Applicants have to demonstrate that a *bona fide* attempt was made to present a copy of the application papers to the inventors. MPEP §409.03(d).

As to Inventor Zappacosta, the petition does not indicate the steps, e.g., internet searches, taken to locate a current address for the inventor. See MPEP §409.03(d).


Item (3) has not been met. The petition does not state the last known addresses of the non-signing inventors.

### CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.



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